IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3527 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

@

SABYASACHI GHOSH

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 3527 of 1988

MR MC BHATT for Petitioner No. 1-3

MR JA SHELAT for Petitioner No. 1

MR MANISH K DAGLI, AGP for Respondent No. 1-4

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 19/07/2002

ORAL JUDGEMENT

The controversy raised by three petitioners in the present petition is with regard to their claim for increments because the increments were denied on the ground that they had not passed the requisite

departmental examination in Gujarati language. The petition was placed for admission hearing before the Division Bench on July 11, 1988 and after hearing the learned counsel for the petitioners, rule was issued as well as notice as to ad-interim relief was also issued. Again, the matter was notified for further hearing before the Division Bench on July 26, 1988 and following order was passed :

"Interim relief prayed for in terms of paragraph 11(C) on condition that (i) the petitioners shall appear at every Gujarati Language Examination till they pass, (ii) that the petitioners will restore the amount of increments in salary within three months from the order of the High Court in case the petitioners fail in this petition, and (iii) the petitioners shall file an undertaking in that behalf within three weeks from today."

2. Mr. Manish K. Dagli, learned Assistant Government Pleader, has produced a communication dated July 12, 2002 addressed by the Administrative Officer, Medical College, Vadodara, which indicates that Dr. S. Ghosh, who is petitioner no.1, has passed the examination in Gujarati language and is exempted from appearing in the examination in Hindi language because he had completed 45 years of age on December 31, 1994 and that necessary increments have been paid to him. In view of this, no direction is required to be given so far as petitioner no.1 is concerned.

3. Mr. M.C.Bhatt, learned counsel for the petitioners, has submitted that he has no definite instructions as to whether the remaining two petitioners have passed such examination or not, but he has submitted that nobody's increment is withheld and the increment due to each of the remaining petitioners has been released from the due date. Mr. Dagli, learned A.G.P. states that increment payable to the other two petitioners has not been withheld, nor the same shall be withheld even in future provided they undertake to pass the examination even now, within a period of three years i.e. by the end of the year 2005. Mr. Bhatt, learned counsel appearing for the petitioners, at this stage, agrees to the condition of passing the requisite departmental examination in Gujarati language by the end of the year 2005. Any of the petitioners no.2 & 3, who may not have passed such examination, would, therefore, be under an obligation to pass the same by the end of the year 2005, but the increments of none of the petitioners shall be withheld atleast upto the end of the year 2005. It will

be open for these petitioners to apply before the concerned competent authority of the State Government to grant extension of the period of three years after the expiry of the year 2005 and it will be in the discretion of the Government to extend such time as the concerned authority deems proper in the facts and circumstances of all or any of the cases. In case the Government fails to hold such examination in any year, the limitation of three years would automatically stand extended to that extent.

Subject to the above-referred to directions, the petition is allowed in the agreed terms as above and the rule is made absolute in the above terms. There shall be no order as to costs.

(J.M.Panchal,J.)

(patel)